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18 August 1988
OCA 2801-88

FROM :

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SUBJECT: FY '89 Intelligence Authorization Bill -
Conference Report

1. Attached for your information is a copy of the conference report on H.R. 4387, the Intelligence Authorization bill for Fiscal Year 1989 (Congressional Record, 11 August 1988, pp. H6984 - 6991; House Report No. 100-879).

2. Also attached is a chart depicting the status of the various provisions. Some provisions of interest are as follows.

- A. FBI NYC Demonstration Project - Section 601. You will note the conferees adopted the House provision which places "ceilings" on any benefits adopted under the plan.
- B. DoD Intelligence Issues (p. H 6988). You will note the discussion of the conferees' perceived need for an Assistant Secretary of Defense for Intelligence as well as the provision in the Department of Defense authorization bill requiring the Secretary of Defense to work with the Director of Central Intelligence (DCI) on narcotics intelligence issues.
- C. Narcotics Intelligence Report (p. H 6990). You will note the request by the conferees that the Secretary of Defense and the DCI, "in concert with

law enforcement agencies" submit to the Congress no later than 1 March 1989 an assessment of narcotics intelligence requirements, the impact on the Intelligence Community of fulfilling such requirements and a plan for that tasking.

- D. SEO Charter Evaluation Report (p. H6990). You will note the conferees' request that the DCI report by 31 December 1988 on the Security Evaluation Office (SEO). This is followed by a request that the DCI make a comprehensive review of counterintelligence policy and report to the Congress in conjunction with the Fiscal Year 1990 budget submission.

3. In contrast to previous years, conference action on the bill was rather swift. The Senate passed its version of the bill on 5 August 1988 and the conferees filed their report on 11 August. The conference was relatively easy as there were few major issues in dispute. Quick action on the report is expected when the Congress returns in September.

4. Please contact us if you have any questions or comments.



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Attachments
as stated

SUBJECT: FY '89 Intelligence Authorization
Bill - Conference Report

A/D/OCA/ [] 18 Aug 88

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(Number in parenthesis after an item indicates its inclusion in the Intelligence Community Legislative Program for the 100th Congress, 2nd Session.)

FY '89 INTELLIGENCE AUTHORIZATION BILL: ITEMS IN HPSCI & SSCI BILLS

<u>HPSCI BILL - H. R. 4387</u> <u>(introduced 4-14-88)</u> <u>(ordered reported</u> <u>4-15-88)</u> <u>H. Rpt. No. 100-591,</u> <u>Part 1</u>	<u>FINAL HOUSE</u> <u>FLOOR ACTION</u> <u>(5-26-88)</u>	<u>SSCI BILL - S. 2366</u> <u>(reported out as original</u> <u>bill 5-11-88)</u> <u>Sen. Rpt. No. 100-334</u>	<u>FINAL SENATE</u> <u>FLOOR ACTION</u> <u>(8-5-88)</u>	<u>CONFERENCE REPORT</u> <u>(Filed 8-11-88)</u> <u>H.Rept. 100-879</u>
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1. CONGRESSIONALLY-INITIATED ITEMS

DCI Advisory Committees Compensation	No	No	Yes (\$503)	Yes	Yes (\$503)
FBI NYC Demonstration Project (100/2-28)	Yes (\$601)	Yes <u>1</u> (modified)	Yes (\$601)	Yes	Yes (\$601)
CIA/NSA EEO Reports	Yes (\$403)	Yes	No	No	Yes (\$403)
DIA NonDisclosure Authority Redesignation	Yes (\$703)	Yes	No	No	Yes (\$703)
Assistant Secretary of Defense for Intelligence	Yes (\$702)	Yes <u>2</u> (modified)	No	No	Yes (\$702)
NSA Foreign Cryptologic Support Authority	Yes (\$701)	Yes	Yes (\$701)	Yes	Yes (\$701)
Overt, "Earmarked" Budget Items	Yes (\$101)	Yes	Yes (\$101)	Yes	Yes (\$101)

1 - Modified by Ackerman Amendment2 - Conformed to DoD FY'89 auth bill version by Mavroules Amendment

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	<u>HFSCI BILL - H. R. 4387</u>	<u>HOUSE ACTION</u>	<u>SSCI BILL - S. 2366</u>	<u>SENATE ACTION</u>	<u>CONFERENCE REPORT</u>
1. (Con't)					
POW/MIA Live Sightings Report Declassification	No	Yes (\$404) <u>3</u>	No	No	Yes (\$404)
DIA/DMA Personnel Reduction Exemption	Yes (\$102)	Yes	No	No	No
Nicaraguan Restrictions	Yes (\$104)	Yes <u>4</u>	No	No	Yes (\$104)
CIA IG Provisions	No	No	Yes (\$504)	Yes	Yes (\$504)
CIARDS "Former Spouses" Technical Corrections	No	Yes (\$302) <u>5</u>	No	No	Yes (\$302)
DIA Defense Attache' Death Gratuity	No	No	No	Yes (\$704) <u>6</u>	Yes (\$704)
2. <u>ITEMS FROM ADMINISTRATION BILL</u> (H.R. 4430 - Rep. Hyde, by request)					
"Mole Relief Recapper" (Not in Program)	Yes (\$501)	Yes	Yes (\$501)	Yes (\$501)	Yes (\$501)
FEES "2nd Chance" (100/2-34)	No	No	Yes (\$502)	Yes (\$502)	Yes (\$502)

3 - Smith/Solarz Amendment
4 - Hyde Amendment to lift defeated
5 - McHugh Amendment
6 - Dole/Stevens Amendment

H 6984

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project, and activity" shall include the most specific level of budget items identified as a dollar amount in the Treasury, Postal Service, and General Government Appropriations Act, 1989 (H.R. 4775), the House and Senate committee reports (H. Rept. 100-679) and S. Rept. 100-387), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (Under the above definition, the Federal Buildings Fund, the Bureau of Engraving and Printing Fund, and other intragovernmental funds are among the accounts exempt from sequestration altogether.)

In implementing a Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1989 pursuant to the provisions of Public Law 99-177, as amended, to each budget item that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriations acts (including joint resolutions providing continuing appropriations), and accompanying House and Senate Committee reports, conference reports, or joint explanatory statements of the committee of conference.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1989 recommended by the Committee of Conference, with comparisons to the fiscal year 1988 amount, the 1989 budget estimates, and the House and Senate bills for 1989 follow:

New budget (obligational) authority, fiscal year 1988.....	\$15,115,699,000
Budget estimates of new (obligational) authority, fiscal year 1989.....	16,163,725,000
House bill, fiscal year 1989.....	16,113,771,000
Senate bill, fiscal year 1989.....	15,917,514,000
Conference agreement, fiscal year 1989.....	16,019,910,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1988.....	+ 904,211,000
Budget estimates of new (obligational) authority, fiscal year 1989.....	- 143,815,000
House bill, fiscal year 1989.....	- 93,861,000
Senate bill, fiscal year 1989.....	+ 102,396,000

EDWARD R. ROYBAL,
DANIEL K. ARAKA,
STENY H. HOYER,
RONALD D. COLEMAN,
EDWARD P. BOLAND,
SIDNEY R. YATES
(except 92),

JAMIE L. WHITTEN,
JOE SKEEN,
BILL LOWERY,
FRANK R. WOLF,
SILVIO O. CONTE,

Managers on the Part of the House.

DENNIS DECONCINI,
WILLIAM PROXMIER,
B.A. MIKULSKI,
JOHN C. STENNIS,
PETE DOMENICI,
ALFONSO M. D'AMATO,
MARK O. HATFIELD,

Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 4387

Mr. STOKES submitted the following conference report and statement

on the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-879)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, having agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1989."

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1989 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The Drug Enforcement Administration.

(b) None of the funds authorized to be appropriated by this Act may be used to procure more than three GUARDRAIL RC-12K aircraft and sensor suites until the Department of the Army has submitted to the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives and to the Committee on Armed Services of the Senate a report detailing the long-range plans and budgetary commitments to meet the future requirements for tactical airborne reconnaissance in support of the United States Army. The report should include, but not be limited to, the contribution of remotely piloted vehicles and other reconnaissance assets.

(c) Of the funds authorized to be appropriated in this Act for the Defense Intelligence Agency, the Secretary of Defense may transfer not to exceed \$15,000,000 to appropriations for the foreign counterintelligence activities for the Federal Bureau of Investigation.

(d) The expiration date provided for in section 803(b) of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169) shall be extended until December 31, 1989.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (2) The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1989, for the conduct of the intelligence

and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany H.R. 4387 of the One Hundredth Congress.

(b) The Schedule of Authorizations described in subsection (a) shall be made available to the Committee on Appropriations of the Senate and of the House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1989 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1989 the sum of \$23,745,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized 244 full-time personnel as of September 30, 1989. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During Fiscal Year 1987, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During Fiscal Year 1989, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

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INTELLIGENCE COMMUNITY STAFF ADMINISTERED
IN SAME MANNER AS CENTRAL INTELLIGENCE
AGENCY

SEC. 203. During Fiscal Year 1989, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE
AGENCY RETIREMENT AND DISABILITY
SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for Fiscal Year 1989 the sum of \$144,500,000.

COMPARABILITY OF CERTAIN SPOUSE PROVISIONS
WITH CIVIL SERVICE RETIREMENT AND DISABILITY
SYSTEM

SEC. 302. (a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new section:

"SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES
AND SECOND CHANCE TO ELECT SURVIVOR ANNUITY
FOR CERTAIN SPOUSES

"SEC. 226 (a) The Director shall prescribe regulations under which any previous spouse (including former spouses who are also previous spouses), divorced after the effective date of this section from a participant, former participant, or annuitant whose retirement or disability or FECA (chapter 81 of title 5, United States Code) annuity commences after the effective date of this section, shall be eligible for a survivor annuity to the same extent, and, to the greatest extent practicable, under the same conditions (including reductions to be made in the annuity of the participant) applicable to spouses of participants in the Civil Service Retirement and Disability System (CSRS) married for at least 9 months with service creditable under section 8332 of title 5, United States Code.

"(b) The Director shall prescribe regulations under which participants, retired participants, and former participants who have separated from service with a deferred annuity may make an election within two years after the effective date of this section (or, if later, at the time of retirement) to receive a reduced annuity, pay a deposit, and provide a survivor annuity for any spouse for whom survivor benefits were not elected at the time of retirement, or (if the marriage occurred after retirement) were not elected in a timely manner, and for any previous spouse (including former spouses who are also previous spouses) who is not eligible for a survivor annuity under subsection (a) of this section, under, to the greatest extent practicable, the same terms and conditions as those prescribed for participants in the Civil Service Retirement and Disability System (CSRS) by the Civil Service Retirement Spouse Equity Act of 1984.

"(c) As used in this section, the term 'previous spouse' means a former wife or husband who was married for at least nine months to a participant or former participant who had at least 18 months of service which are creditable under sections 251, 252, and 253 of this Act.

"(d) This section shall take effect on the date of enactment of the Intelligence Authorization Act Fiscal Year 1989."

(b)(1) Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(A) in subsection (a)(2), by inserting "an amount equal to any survivor annuity pay-

ments made to the former spouse under section 223 and also by" after "shall be reduced by"; and

(B) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) The amendments made by paragraph (1) shall take effect as of October 1, 1986.

(c)(1) Section 225(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982," after "1982."

(2) The amendment made by paragraph (1) shall take effect as of December 2, 1987.

(d)(1) The third sentence of section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out "one year" and inserting in lieu thereof "nine months after the date of remarriage."

(2) Section 221 of title II of such Act is amended by adding at the end thereof the following new subsection:

"(p) The election of a survivor annuity and the reduction of an annuity under subsection (f)(2) or (n) of this section shall take effect on the first day of the first month beginning 9 months after the date of marriage. For the purposes of this subsection, the 9-month period shall be deemed to be satisfied in any case in which—

"(1) the annuitant dies within such period;

"(2) the surviving spouse of the annuitant had been previously married to the annuitant and subsequently divorced; and

"(3) the aggregate time married is at least 9 months."

(3) The amendment made by this subsection shall apply to marriages which occur on or after May 7, 1985.

(e) Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

TITLE IV—GENERAL PROVISIONS

RESTRICTION OF CONDUCT OF INTELLIGENCE
ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED
BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

EQUAL EMPLOYMENT OPPORTUNITY PLAN

SEC. 403. Ninety days after enactment of this Act, the Director of Central Intelligence and the Secretary of Defense shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report setting forth an analysis of each equal employment opportunity group's representation in the Central Intelligence Agency and the National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by September 30, 1991.

(b) The Director of Central Intelligence and the Secretary of Defense shall each

submit interim reports on February 1, 1989, 1990, and 1991 concerning the Central Intelligence Agency and the National Security Agency respectively detailing the efforts made, and the progress realized, by each such agency in achieving the objectives of each such plan, including, but not limited to, the number of applications from, and the hiring, promotion, and training of, members of each equal employment opportunity group.

(c) For purpose of this section, the term "equal employment opportunity group" means—

- (A) white women,
- (B) black men,
- (C) black women,
- (D) Hispanic men,
- (E) Hispanic women,
- (F) Asian American and Pacific Islander men,
- (G) Asian American and Pacific Islander women,
- (H) Native American and Alaskan Native men, or
- (I) Native American and Alaskan Native women.

DISCLOSURE OF INFORMATION CONCERNING
AMERICAN PERSONNEL LISTED AS PRISONER,
MISSING, OR UNACCOUNTED FOR IN SOUTHEAST
ASIA

SEC. 404. (a) This section is enacted to ensure that current disclosure policy is incorporated into law.

(b) Except as provided in subsection (c), the head of each department or agency—

(1) with respect to which funds are authorized under this Act, and

(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict,

shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen.

(c) Subsection (b) does not apply with respect to—

(1) information that would reveal or compromise sources and methods of intelligence collection; or

(2) specific information that previously has been made available to the next-of-kin.

(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.

TITLE V—CENTRAL INTELLIGENCE
AGENCY ADMINISTRATIVE PROVISIONS

ONE-TIME PERSONNEL AUTHORITY

SEC. 501. (a) Whenever the Director of Central Intelligence finds during fiscal year 1989 that a former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such former employee, the Director may grant such former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

(d) The Director shall report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives any use of the authority granted by this section in advance of such use.

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FERS-CIARDS SPECIAL ELECTION AUTHORITY

SEC. 502. (a) Subsection (d) of section 301 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is redesignated as subsection (e); and

(b) A new subsection (d) is added after subsection (c) as follows:

"(d) An employee who has been designated as a participant in the Central Intelligence Agency Retirement System after December 31, 1987, pursuant to section 203 of this Act, may elect to become subject to chapter 84 of title 5, United States Code. An election under this paragraph—

"(1) shall not be effective unless it is made during the six-month period after the enactment of this section, or during the six-month period beginning on the date on which the employee is so designated, whichever comes later;

"(2) shall take effect beginning with the first pay period beginning after the date of the election; and

"(3) shall be irrevocable."

AUTHORITY TO COMPENSATE RETIRED MILITARY PERSONNEL SERVING ON DCI ADVISORY COMMITTEES

SEC. 503. Subsection (a) of section 303 of the National Security Act of 1947 (50 U.S.C. 405) is amended by adding at the beginning of the last sentence "Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation," and by changing the word immediately thereafter from "Other" to "other."

REPORTS CONCERNING INSPECTOR GENERAL ACTIVITIES

SEC. 504. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after section 16 of the following new section:

"REPORTS OF INSPECTOR GENERAL ACTIVITIES"

"SEC. 17. The Director of Central Intelligence shall furnish to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the following reports relating to the activities of the Inspector General at the Central Intelligence Agency.

"(a) A report made at the time any Inspector General is selected by the Director of Central Intelligence, specifying the name of the person selected, and certifying that such selection was made without regard to political affiliation. Such report shall also include a certification that the person selected meets Central Intelligence Agency security requirements and has had prior senior experience in the foreign intelligence field. It should also describe the background of such person as it relates to his or her experience in accounting, law, financial analysis, management analysis, public administration, or other field directly relevant to the performance of functions assigned the Inspector General.

"(b) A report made at the time any Inspector General is removed by the Director of Central Intelligence, specifying the basis for such removal.

"(c) Semiannual reports, to be furnished not later than June 30 and December 31 of each year, summarizing the activities of the Office of Inspector General for the preceding six-month period. Such reports shall include: (i) a certification that such activities have been carried out in accordance with accepted Federal standards for inspections, investigations, and audits; (ii) a certification that the Inspector General has had full and direct access to all information relevant to his activities; (iii) a description of any violation of law or willful violation of regula-

tions, or any evidence of serious fraud, waste and abuse, identified during the reporting period; and (iv) the status of corrective actions taken during the reporting period in response to Inspector General recommendations.

"(d) A report of any decision made by the Director of Central Intelligence to prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation within the Central Intelligence Agency, to be made within seven days of such decision.

"(e) A report of any other decision made by the Director of Central Intelligence which would substantially affect the ability of the Inspector General to carry out his duties and responsibilities. Such report shall include the position of the Inspector General with respect to such decision, and be transmitted within seven days to the committees."

TITLE VI—FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

DEMONSTRATION PROJECT ON MOBILITY AND RETENTION FOR THE NEW YORK FIELD DIVISION

SEC. 601. (a) Notwithstanding any other provision of law, the Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall conduct a demonstration project to ascertain the effects on the recruitment and retention of personnel, and on field operations in the New York Field Division of the Federal Bureau of Investigation of providing—

(1) lump sum payments to personnel upon directed assignment to the New York Field Division from another geographical location who enter into an agreement to complete a specified minimum period of service, not to exceed three years, in the New York Field Division, except that no lump-sum payment under this paragraph may exceed \$20,000, and no employee shall be eligible to receive more than one lump-sum payment under this paragraph in connection with each such assignment; and

(2) periodic payments to New York Field Division employees who are subject by policy and practice to directed geographical transfer or reassignment, except that the amounts paid under this paragraph to an employee for any period may not be less than 20 per centum nor greater than 25 per centum of the basic pay paid or payable to such employee for service performed during such period.

Any lump-sum payment under paragraph (1) and any periodic payment under paragraph (2) shall be in addition to basic pay. Any authority to make payments under this section shall be effective only to the extent of available appropriations.

(b) Such demonstration project shall commence not later than ninety days after the date of enactment of this Act and shall terminate five years after such date, unless extended by law.

(c) The Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall jointly provide to the President and the Congress annual interim reports and, at the conclusion of the 5 year period, a final evaluation concerning the result of the demonstration project.

TITLE VII—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SEC. 701. (a) Section 421 of Title 10, United States Code, is amended to read as follows:

"SEC. 421. FUNDS FOR FOREIGN CRYPTOLOGIC SUPPORT.

"(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and commu-

nications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

"(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

"(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds; and

"(2) proceeds from the sale of cryptologic items may be used only to purchase replacement items similar to the items that are sold; and

"(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

"(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House pursuant to the provisions of Title V of the National Security Act of 1947, as amended, and funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense."

(b) The reference to Section 421 in the sections at the beginning of Chapter 21 of such title is amended to read "Funds for Foreign Cryptologic Support."

AUTHORITY TO ESTABLISH POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

SEC. 702. Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

"(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

"(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

"(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense."

REQUIREMENTS TO DISCLOSE DEFENSE INTELLIGENCE AGENCY ORGANIZATIONAL AND PERSONNEL INFORMATION

SEC. 703. (a) Section 1607 of title 10, United States Code (as added by section 603 of Public Law 100-178), is transferred to the end of chapter 21, redesignated as section 424, and amended to read as follows:

"§ 424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency

"(a) Except as required by the President or as provided in subsection (b), the Secretary of Defense may not be required to disclose information with respect to—

"(1) the organization or any function of the Defense Intelligence Agency; or

"(2) the number of persons employed by or assigned or detailed to such Agency or the

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name, official title, occupational series, grade, or salary of any such person.

"(b) This section does not apply—

"(1) with respect to the provision of information to Congress; or

"(2) with respect to information required to be disclosed by section 552 or 552a of title 5."

"(b) The table of sections at the beginning of chapter 21 of such title is amended by adding at the end the following new item:

"424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency."

DEFENSE ATTACHE DEATH GRATUITY

SEC. 704. (a) During FY 1989, the Secretary of Defense may pay a death gratuity identical to that payable under Section 1489(b) of title 10, United States Code, to the surviving dependents of a member of the armed forces who, while serving on active duty assigned to a Defense Attache office outside the United States, died as a result of hostile or terrorist activities.

(b) The death gratuity referred to in subsection (a) may be paid with respect to an individual who died on or after June 15, 1988.

(c) The Secretary of Defense shall submit to Congress no later than March 1, 1989 a report concerning the advisability of permanent law permitting the payment of death gratuities to the survivors of any member of the armed services who, while on active duty assigned to a Defense Attache office outside the United States, dies as a result of hostile or terrorist activities.

And the Senate agree to the same.

LOUIS STOKES,
ANTHONY C. BEILINSON,
ROBERT A. ROE,
MATTHEW F. MCHUGH,
BERNARD J. DWYER,
CHARLES WILSON,
BARBARA B. KENNELLY,
DAN GLICKMAN,
NICK MAVROULES,
BILL RICHARDSON,
HENRY J. HYDE,
DICK CHENEY,
BOB McEWEN,
DAN LUNGREN,

For matters within the jurisdiction of the Committee on Armed Services:

LES ASPIN,
SAMUEL S. STRATTON,
WM. L. DICKINSON,

Managers on the Part of the House.

DAVID L. BOREN,
BILL COHEN,
LLOYD BENTSEN,
SAM NUNN,
ERNEST F. HOLLINGS,
BILL BRADLEY,
ALAN CRANSTON,
HOWARD M. METZENBAUM,
BILL ROTH,
ORRIN G. HATCH,
FRANK H. MURKOWSKI,
ARLEN SPECTER,
CHIC HECHT,
JOHN WARNER,

For matters within the jurisdiction of the Committee on Armed Services:

J. JAMES EXON,
STROM THURMOND,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4387) to authorize appropriations for fiscal year 1989 for intelligence and intelligence-

related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DOD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions of the intelligence committee of the House and the Senate. The special conference group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the National Defense Authorization Act, 1989. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation category of Military Pay.

TITLE I—INTELLIGENCE ACTIVITIES

SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1989 and establish personnel ceiling applicable to such activities.

Subsections 101(a) and (b) are identical to subsections 101(a) and (b) of the House bill.

Subsection 101(c) is identical to subsection 101(c)(3) of the House bill except that the decision to transfer \$15.1 million from the Defense Intelligence Agency to the Federal Bureau of Investigation is left to the Secretary of Defense. The conferees expect the Secretary to make this transfer if the funds in question are appropriated to the Department of Defense. If these funds are appropriated directly to the FBI, he need not do so.

Subsection 101(d) is identical to subsection 101(d) of the House bill, except that the expiration date of Section 803(b) of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169) is extended until December 31, 1989.

Section 803 permits the Department of Defense, the Office of Personnel Management and the Central Intelligence Agency (and, by later amendment, the Federal Bureau of Investigation) to obtain state and local criminal history record information for use in security checks. Section 803 required these Federal agencies to enter into agreements to indemnify states or localities for claims against them arising from the disclosure or use of the criminal history record information obtained by means of this statute. The requirement for such indemnification agreements expires three years after enactment of the statute. Section 803(b) of the 1986 Act, however, required a report from the Department of Justice (in consultation with the affected Federal agencies) concerning the effect or requiring such indemnification agreements. That report, which was due in December, 1987, was not submitted by the Department until May 24, 1988. Failure to provide this report has frustrated the plan of Congress, which was to have a full year before expiration of the indemnification requirement to review the report and consider whether the indemnification requirement should continue, lapse, or be modified.

Section 101(d) of the House bill extended the expiration date for the indemnification requirement until one year after the submission of the required report. The conferees adopted the House provision, with an amendment changing the expiration date until December 31, 1989. The additional time will permit the underlying issues to be fully addressed during consideration of the FY 90 intelligence authorization bill.

The conferees note that the regulations issued to implement section 803 of the FY 86 Intelligence Authorization Act and the indemnification agreement drawn up by the Department of Justice appear to contravene the intent of section 803. As a result, only three states have agreed to enter into such an agreement. The conferees expect the Department to take the necessary steps to insure that section 803 is implemented as the Congress intended.

Subsection 102(c) of the House bill would have exempted the Defense Intelligence Agency and the Defense Mapping Agency from reductions in non-headquarters personnel reductions by the Secretary of Defense mandated by the Department of Defense Reorganization Act of 1986. Since the House Committee's action, the Secretary has made sufficient defense personnel reductions to satisfy the requirements of that Act, making subsection 102(c) of the House bill unnecessary.

SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personnel ceilings in certain circumstances. Section 103 of the conference report is identical to Section 103 of the House bill and Section 103 of the Senate amendment.

The conferees emphasize that the authority conveyed by Section 103 is not intended to permit the wholesale raising of personnel strength in each or any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees from retirement, resignation, and so forth. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed personnel levels set in the Schedule of Authorizations except for the satisfaction of clearly

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identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this Act.

SECTION 104

Section 104 of the House bill provided that funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan resistance to support military or paramilitary operations in Nicaragua only as authorized pursuant to Section 101 and as specified in the Classified Schedule of Authorizations referred to in Section 102, Section 502 of the National Security Act of 1947, or any provision of law specifically providing such funds, materiel or assistance, such as is contained in H.J. Res. 523 of the 100th Congress, a joint resolution providing assistance and support for peace, democracy and reconciliation in Central America (Public Law 100-276).

The Senate amendment contained no comparable provision but authorized funds for the provision of intelligence information and advice.

Section 104 of the conference agreement is identical to Section 104 of the House bill.

TITLE II--INTELLIGENCE COMMUNITY STAFF

SECTIONS 201, 202, AND 203

Title II of the conference report authorizes appropriations and personnel end-strengths for fiscal year 1989 for the Intelligence Community Staff and provides for administration of the Staff during fiscal year 1989 in the same manner as the Central Intelligence Agency. Both the House bill and the Senate amendment authorized \$23,745,000 and 244 personnel.

TITLE III--CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED MATTERS

SECTION 301

Section 301 of the conference report authorizes appropriations for fiscal year 1989 of \$144,500,000 for the CIA Retirement and Disability Fund. Both Section 301 of the House bill and Section 301 of the Senate amendment authorized \$144,500,000 for the Fund.

Section 302 of the House bill contained a number of technical amendments to the Central Intelligence Agency Retirement Act of 1964 for Certain Employees affecting certain former spouses of CIA employees. The Senate amendment had no comparable provision. Section 302 of the conference agreement is identical to section 302 of the House bill.

TITLE IV--GENERAL PROVISIONS

SECTION 401

Section 401 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 401 of the conference report is identical to Section 401 of the House bill and of the Senate amendment.

SECTION 402

Section 402 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation of benefits authorized by law. Section 402 of the conference report is identical to Section

402 of the House bill and of the Senate amendment.

SECTION 403

Section 403 of the House bill would require the Director of Central Intelligence and the Secretary of Defense to submit 90 days after enactment a report setting forth an analysis of the representation of each minority group at the CIA and NSA respectively, and proposing a plan for each agency that would address any underrepresentation of any such group by September 30, 1991. Section 403 of the conference report is identical to Section 403 of the House bill.

Section 404 of the House bill would require the disclosure of all live sighting reports or portions thereof correlated or possibly correlated to any United States citizen reported missing in action, prisoner of war or unaccounted for from the Vietnam conflict to the next-of-kin of that United States citizen. This provision in effect codified current disclosure policy employed by the Defense Intelligence Agency which has responsibility for collecting and analyzing such live sighting reports.

The Senate amendment contained no comparable provision.

Section 404 of the conference agreement is identical to section 404 of the House bill.

TITLE V--CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

SECTION 501

Section 501 of the conference report would grant the Director of Central Intelligence the authority during fiscal year 1989 to grant monetary or other relief (including reinstatement or promotion) to a former employee of the Central Intelligence Agency that the Director determines had had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such former employee.

Section 501 of the conference report is identical to Section 501 of the House bill and of the Senate amendment.

SECTION 502

Section 502 of the Senate amendment would permit a small class of Central Intelligence Agency employees a second opportunity to elect coverage under the new Federal Employees Retirement System.

The House bill contained no comparable provision.

Section 502 of the conference report is identical to Section 502 of the House bill and of the Senate amendment except for a technical amendment to new subsection 301(d)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees as amended.

SECTION 503

Section 503 of the Senate amendment would permit the Director of Central Intelligence to compensate retired military officers who serve as members of advisory committees to the DCI notwithstanding the provision of law which precludes compensation to "persons holding other offices or positions under the United States for which they receive compensation."

The House bill contained no comparable provision.

Section 503 of the conference report is identical to Section 503 of the House bill and of the Senate amendment.

SECTION 504

Section 504 of the Senate amendment would require the Director of Central Intelligence to provide reports to the Intelligence Committees of the Congress concerning the Inspector General at the CIA.

The House bill contained no comparable provision.

Section 504 of the conference report is identical to Section 504 of the House bill and of the Senate amendment.

TITLE VI--FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

SECTION 601

Section 601 of the House bill would establish a demonstration project to ascertain the effects on recruitment and retention of personnel and on field investigations in the New York Field Division of the Federal Bureau of Investigation by providing lump-sum payments not to exceed \$20,000 and periodic payments between 20 and 25 percent of basic pay to employees of the New York Field Division of the FBI.

Section 601 of Senate amendment contained a comparable provision without dollar specific ceilings for lump-sum payments and floors and ceilings periodic payments.

Section 601 of the conference agreement is identical to section 601 of the House bill

TITLE VII--DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SECTION 701

Sections 701 of the House bill and the Senate amendment would revise section 421 of Title 10, United States Code, to provide authority to the Secretary of Defense to use both appropriated and non-appropriated funds for the expenses of arrangements with foreign countries for cryptologic support.

Section 701 of the conference agreement is identical to section 701 of the Senate amendment except that non-appropriated funds may not be used to acquire items or services for the principal benefit of the United States and must be reported to the Intelligence Committees pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense. The purpose of the first change with respect to the items and services acquired for the principal benefit of the United States is to ensure that funds acquired in the context of cooperative cryptologic support arrangements not supplant the requirement that the Department of Defense seek appropriations for items and services which will be redound to the principal benefit of the United States. In such cooperative arrangements, it is anticipated that an equitable sharing of expenses will control each party's contribution to cooperative projects. With respect to the procedures for reporting the use of non-appropriated funds, they have been worked out in advance between the Committees and the Department of Defense and provide for detailed reporting of such expenditures.

SECTION 702

Section 702 of the House bill would have created a new Assistant Secretary of Defense for Intelligence in lieu of the existing position of the Assistant Secretary of Defense for Command, Control Communications, and Intelligence and would have added an additional undesignated Assistant Secretary of Defense position.

The Senate amendment contained no comparable provision.

Section 702 of the conference agreement contains a provision identical to section 701 of the Conference Report to accompany H.R. 4264, the National Defense Authorization Act, Fiscal Year 1989, which would permit the Secretary of Defense to designate an Assistant Secretary of Defense for Intelligence in which case the Assistant Secretary of Defense for Command, Control, Communications and Intelligence would be redesignated as the Assistant Secretary of Defense for Command, Control and Communications.

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For more than a decade, the Intelligence Committees, often in concert with the Committees on Armed Services, have worked to rebuild Department of Defense intelligence capabilities following the draw down of the mid-1970's. The Committees have also authorized substantial additional resources to ensure that accurate and timely intelligence continues to be available to the Secretary of Defense and operational commanders despite the severe challenges posed by new requirements, the changing nature and sophistication of the target, and the increased hostile intelligence threat. These challenges will continue to pose problems for Defense intelligence in the foreseeable future and will likely be compounded by arms control agreements and continued fiscal constraints.

To better utilize available intelligence resources and cope with these challenges, the Congress has also attempted to strengthen the management of intelligence and related activities within the Department of Defense. Intelligence is widely recognized as a unique area within DoD. The unusual security requirements for compartmented intelligence information, the extensive cross-service nature of intelligence activities, and the need for inter-agency coordination of Defense intelligence operational, programmatic, analytic and production activities pose special management problems. Moreover, because intelligence plays such a decisive role in supporting military operations and in the defense policy, planning and weapon acquisition processes, the adequacy of organizational structures and mechanisms to ensure that necessary intelligence is made available to Defense officials and military commanders may well determine the success or failure of Defense programs and operations.

The conferees are concerned that the current organization and management of Defense intelligence and counterintelligence activities is not optimized to meet current needs and projected challenges. The conferees continue to find intelligence functions and responsibilities fragmented within the Office of the Secretary of Defense. This fragmentation appears to inhibit the coordination of Defense intelligence activities and to reduce the effectiveness of DoD representation in the national intelligence community. Moreover, the fragmentation denies Congress a single focal point who can articulate the intelligence needs of the Department and recommend initiatives to overcome intelligence shortfalls and denies the Secretary of Defense policy level intelligence advice to support critical decisions. For example, the Department still does not have a senior, full-time, civilian official who is responsible for advising the Secretary, Deputy Secretary and Under Secretaries regarding intelligence matters and who participates in the resource allocation process and in the production and evaluation of intelligence estimates. Even the Department of State, with only a fraction of the intelligence resources of DoD, delegates these responsibilities to an Assistant Secretary of State.

The conferees recognize many factors contribute to the Department's apparent intelligence deficiencies but believe organization and management improvements could substantially enhance programs to counter the hostile intelligence threat to Defense activities, to provide needed intelligence to combat drugs and terrorism, and to ensure that the latest intelligence is made available to support major policy decisions as well as research, development and acquisition decisions for major weapon systems.

The fiscal year 1989 DoD Authorization Conference also recognized shortfalls in two of these areas. The Conference required submission of an annual Net Assessment

which would include an in-depth analysis of Soviet capabilities and establishment of an independent "red team" to look at the Strategic Defense Initiative. The DoD conferees also emphasized the key role intelligence plays in drug interdiction and directed the Secretary of Defense to work with the Director of Central Intelligence to ensure that the collection of drug interdiction information is established as a high priority for the intelligence community.

In addition to the Congressional concerns, DoD internal observations and recommendations regarding current Defense intelligence management were highlighted in recently completed reports required by the Goldwater-Nichols DoD Reorganization Act of 1986. In two reports published by the Office of the Secretary of Defense staff and in the report of the Chairman of the Joint Chiefs of Staff, recommendations were advanced for consideration by the Secretary of Defense and the Congress concerning the separation of C³ and Intelligence and establishing an Assistant Secretary of Defense for Intelligence to centrally coordinate and focus on U.S. intelligence issues. For example, the Reassessment of Defense Agencies and DoD Field Activities, dated October 1987, included the following conclusions: "Oversight of the Defense Intelligence Community, at large, is fragmented, causing program disconnects for the U&S Commands and their components, the Military Departments, and other Defense Agencies."

This report goes on to recommend "That oversight of all DoD intelligence be assigned to a single senior OSD official responsible for intelligence policy, plans, programs, and budgets." Other reports recommended that consideration be given to establishment of an Assistant Secretary of Defense for Intelligence.

The conferees are usually reluctant to legislate how the Department of Defense organizes itself, but remain concerned about the apparent deficiencies in Defense intelligence organization and management and the resulting potential for intelligence failures or shortfalls. The conferees believe, as a minimum, management of Defense intelligence and counterintelligence activities within the Office of the Secretary of Defense must be reexamined by the Secretary in light of the concerns addressed above as well as the observations/recommendations contained in DoD management studies. Further, since only five months remain in the current Administration, the conferees believe the new administration should also consider changes in current practices to strengthen management of Defense intelligence including the establishment of an Assistant Secretary of Defense for Intelligence.

Accordingly, the conferees direct the Secretary of Defense after February 1, 1989 and prior to March 1, 1989, to review the management of Defense intelligence and counterintelligence activities within the Department and report his views regarding the adequacy of current management arrangements and establishment of the position of Assistant Secretary of Defense for Intelligence.

SECTION 703

Section 703 of the House bill redesignated and made technical corrections to section 1607 of Title 10, United States Code, which pertained to the disclosure of organizational and personnel information by the Defense Intelligence Agency.

The Senate amendment had no comparable provision.

Section 703 of the conference agreement is identical to section 703 of the House bill.

SECTION 704

The Senate amendment contained a provision authorizing the payment of a death gratuity to survivors of any member of the armed forces on active duty assignment to a Defense Attaché Office outside the United States who died as a result of hostile or terrorist action. The death gratuity was to be the same as those payable under section 1489(b) of Title 10, United States Code, to members of the armed forces and civilian employees of the Department of Defense who died from hostile or terrorist action while they were assigned to an intelligence component of the Department of Defense under cover or otherwise engaged in clandestine intelligence activities.

The House bill contained no comparable provision.

Section 704 of the conference agreement would authorize the Secretary of Defense to pay a death gratuity identical to that payable under section 1489(b) to the surviving dependents of any member of the armed forces who, while serving on active duty assigned to a Defense Attaché Office outside the United States, died as a result of hostile or terrorist activities. The authority to make such death gratuity payments would apply only during fiscal year 1989, although it would apply with respect to any member of the armed forces who died on or after June 15, 1988. Finally, the Secretary of Defense is directed to submit to Congress no later than March 1, 1989, a report concerning the advisability of a permanent law permitting the payment of death gratuities to survivors of any members of the armed forces who, on active duty assigned to a Defense Attaché Office outside the United States, died as a result of hostile or terrorist activities.

The conferees agree that Defense Attachés are put at particular risk by virtue of their being publicly identified as U.S. military representatives abroad. They were also fully sympathetic with ensuring that the survivors of Navy Captain William Nordeen, the Defense Attaché recently assassinated in Athens, be provided for in the same manner as other DoD members placed at special risk.

Nevertheless, the conferees were reluctant to enact the provision into permanent law in the absence of a formal assessment of such action from the Department of Defense. Obviously, military personnel are often placed at peculiar risks while serving abroad either in statutory posts or in operational task forces. On the other hand, Defense Attachés perhaps should be considered unique and that they are readily and personally identifiable targets for hostile or terrorist actions.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

Intelligence Support to Drug Interdiction

The conferees endorse the actions taken in the National Defense Authorization Act, Fiscal Year 1989, with respect to Drug Interdiction and Law Enforcement Support.

The conferees agree that it is appropriate for Defense intelligence activities, both national and tactical, to aid the target development and drug interdiction processes by providing reconnaissance and intelligence support. The unique information requirements to support drug interdiction could be met, in part, with tailored intelligence products.

The DoD Authorization Bill requires the President to report on the plan for the integration of command, control, communications and technical intelligence assets of the United States. The conferees believe the reporting requirement is a first step in under-

standing and applying the U.S. intelligence apparatus to the drug interdiction challenge.

The conferees take note of and applaud the initial efforts of the national intelligence community to support law enforcement agencies, but detect that working agreements previously reached have been made on an agency-by-agency basis. The conferees believe that a comprehensive and coordinated effort must be established to ensure that the total capabilities of the DoD and national intelligence communities are exploited without a duplication of effort among services, agencies and activities. The ability to refine the target development requirements and manage the tasking of assets provides a challenge to both the law enforcement agencies and the DoD intelligence community. The conferees expect the challenge will be met with a well-managed program for intelligence support.

The conferees request that the Secretary of Defense and the Director of Central Intelligence, in concert with the law enforcement agencies, provide to the Congress no later than March 1, 1989 an assessment of the drug intelligence and target development information requirements, the impact on the intelligence community elements for supporting such requirements, and a management plan for the tasking, collecting, exploiting and rapidly dissemination information in support of the target development and drug interdiction processes.

Counterintelligence and Security

The classified annexes to both the House and Senate bills included provisions with regard to counterintelligence and security. The conferees believe a public statement of their concerns and actions in this area is also desirable.

Since their inception, the House and Senate Intelligence Committees have closely monitored the threat to the U.S. intelligence and other national security activities posed by foreign intelligence services, as well as counterintelligence and security programs of the intelligence community established to deal with this threat. Both committees have conducted extensive hearings, have undertaken comprehensive staff reviews and investigations of counterintelligence and security problems, and have asked for and received from the Administration studies and reports addressing various counterintelligence and security topics. The House and Senate Intelligence Committees have highlighted serious deficiencies in current counterintelligence and security programs and have highlighted serious deficiencies in current counterintelligence and security programs and have authorized significantly increased funding to deal with many of these deficiencies.

The Senate Intelligence Committee is following up on its 1986 report on "Meeting the Espionage Challenge" and its 1987 report on "Security at the United States Missions in Moscow and Other Areas of High Risk" through the annual budget authorization hearing process and subsequent oversight hearings. The House Intelligence Committee continues to review progress made in implementing the recommendations in its 1987 report, "United States Counterintelligence and Security Concerns—1986" and its Subcommittee on Oversight is conducting a series of hearings on personnel security and counterintelligence issues.

While some improvements have been instituted during the past ten years, and especially in the past two years, the conferees do not believe counterintelligence and security issues yet receive the priority treatment warranted by past problems and the con-

tinuing threat from foreign intelligence services. Despite a number of devastating espionage operations against the United States, the Marine Guard scandal, the discovery of technical penetration of the Moscow Embassy, and Soviet installation of a highly sophisticated surveillance system integral to the new Moscow Embassy building, the conferees believe that basic flaws in the government's security organizations remain and that the intelligence community is still poorly organized, staffed, trained, and equipped to deal with continuing counterintelligence challenges.

The conferees also remain concerned about the slow progress of the State Department in dealing effectively with counterintelligence and security issues. While a number of positive steps have been taken, including the creation of an expanded and upgraded Counterintelligence Staff, the Department of State needs to continue its efforts to improve management of security programs at overseas missions, including both personnel and physical security. Continued enhancements to the State Department Counterintelligence Staff are essential for this purpose. The conferees endorse the Senate Committee recommendation that consideration be given to amending Executive Order 12333 to include the State Department CI Staff within the Intelligence Community.

Although recognizing that the State Department's principal focus is diplomacy, the conferees believe that the emphasis accorded security programs must increase. Further, the conferees believe that such improvements are essential if overseas facilities are to receive and retain classified intelligence information. Accordingly, the conferees request that the Secretary of State continue to keep the House and Senate Intelligence Committees informed regarding his security-related initiatives and that the DCI or his Director, Security Evaluation Office, report by December 31, 1988, on the SEO's charter and other functions related to protection against foreign intelligence threats to U.S. missions abroad. Development of an independent DCI capability to evaluate security at U.S. missions implements a recommendation in the Senate Intelligence Committee's 1987 report on "Security at the United States Missions in Moscow and Other Areas of High Risk." It is especially important in light of inaction on another recommendation in that report for assigning diplomatic security responsibilities to a number of Under Secretary-level officials.

Concerning intelligence community counterintelligence and security programs, the House and Senate Intelligence Committees have supported the DCI's initiative creating the CIA Counterintelligence Center and the DCI's Security Evaluation Office. While these are positive steps, the conferees remain concerned about the organization and focus of the intelligence community's foreign counterintelligence and security efforts and the need for the development of a comprehensive, interagency counterintelligence and security program. While interagency groups have made a contribution, they appear to operate more to address ad hoc policy initiatives than in a true coordinating role. Moreover, intelligence community security activities often operate in isolation from counterintelligence activities and programs focusing on human agents, with insufficient attention paid to technical counterintelligence and basic physical, personnel, and information security. No agency has implemented a comprehensive counterintelligence personnel career development program.

Many of these problems were addressed in the comprehensive reports issued by the House and Senate Intelligence Committees in 1986-87 and in the President's report to the Intelligence Committees, pursuant to the Intelligence Authorization Act of 1986. The Committees are monitoring compliance with those recommendations through ongoing hearings and staff inquiries, and the DCI has submitted follow-up reports at the direction of the President. Accordingly, to take stock of progress and outstanding needs, the conferees request that the DCI conduct a comprehensive review of the current organization and effectiveness of U.S. counterintelligence and security efforts in light of the foregoing comments and suggestions, and report to the House and Senate Committees with the fiscal year 1990 budget describing his views regarding the current U.S. counterintelligence and security effort, what changes have been instituted and what changes he proposes.

The conferees expect that the Intelligence Committees will give high priority next year to working with officials of the new Administration on improvements in U.S. counterintelligence and security programs.

Army National Guard Intelligence Units

The conferees understand that subsequent to a resolution of a dispute between the National Security Agency and the Army National Guard, a decision was made in the Office of the Secretary of Defense to provide a Combat Electronic Warfare and Intelligence (CEWI) capability to the National Guard.

The conferees continue to endorse the total force policy and recognize the contributions National Guard components could make upon mobilization. For this reason, any proposal to provide a signals intelligence (SIGINT) capability to the National Guard should consider the wartime mission of the unit, the efficiency of the units, the availability of linguists and equipment, and adequacy of training and control mechanisms.

The conferees direct that, prior to the transfer of any SIGINT equipment to the National Guard, the Secretary of Defense submit a report to the Armed Services and Intelligence Committees of the Senate and House of Representatives that identifies the National Guard units scheduled to receive the equipment and describes:

- (1) the amount, type and cost of the equipment to be provided,
- (2) the safeguards agreed to by the Army and the National Security Agency to ensure proper use and security of the equipment,
- (3) the training and linguist support plan, and
- (4) the wartime missions and planned contributions to be made by these units.

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